

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Carl A. Waldspurger et al.) Group Art Unit: 2439
Serial No.: 10/791,602)
Filed: March 2, 2004) Examiner: James R. TURCHEN
Title: Dynamic Verification of Validity)
Of Executable Code) Confirmation No. 2029

Atty. Docket: A043

DECLARATION UNDER 37 C.F.R. 1.132

I, Ole Agesen, declare and state as follows:

1. I am a co-inventor on the subject matter recited in all pending claims of the above entitled application.
2. I understand I am submitting this declaration in connection with the Office Action mailed October 26, 2010 for U.S. Patent Application Number 10/791,602. I understand that in the Office Action, claims 2-4, 6-19, 21-33, and 35-62 were rejected at least in part under Das et al (U.S. Patent No. 7,367,057 B2, hereinafter "Das").
3. My qualifications include 15 years of experience working in the software industry, currently as a Principal Engineer and Technical Lead for VMware's Monitor Group.
4. If software is implemented by a functional unit in a pipeline of a processor, the software runs in the processor. The software run in the processor includes microcode.
5. System level software is different from microcode as system level software runs on the processor in a system software layer.
6. Software implemented by the functional unit in the pipeline of the processor could not be system level software because the functional unit does not have access to the system software layer that is running on the processor from the functional unit's position in the pipeline.

7. It would not have been obvious to a person skilled in the art at the time of the invention of Das to implement functions of a functional unit located in the pipeline of the processor in system level software due to the functional unit being located in the pipeline.
8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements, and the like, so made are punishable by a fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: Feb 11, 2011, 2011 By: Ole Agesen
Ole Agesen